



---

[GW Law Faculty Publications & Other Works](#)

[Faculty Scholarship](#)

---

2012

## Women in the Post-Conflict Process: Reviewing the Impact of Recent U.N. Actions in Achieving Gender Centrality

Naomi R. Cahn

*George Washington University Law School*, [ncahn@law.gwu.edu](mailto:ncahn@law.gwu.edu)

Follow this and additional works at: [https://scholarship.law.gwu.edu/faculty\\_publications](https://scholarship.law.gwu.edu/faculty_publications)

 Part of the [Law Commons](#)

---

### Recommended Citation

Naomi Cahn et al., Women in the Post-Conflict Process: Reviewing the Impact of Recent U.N. Actions in Achieving Gender Centrality, 11 Santa Clara J. Int'l. L. 217 (2012).

This Article is brought to you for free and open access by the Faculty Scholarship at Scholarly Commons. It has been accepted for inclusion in GW Law Faculty Publications & Other Works by an authorized administrator of Scholarly Commons. For more information, please contact [spagel@law.gwu.edu](mailto:spagel@law.gwu.edu).

# **Women in the Post-Conflict Process: Reviewing the Impact of Recent U.N. Actions in Achieving Gender Centrality**

Dina Francesca Haynes, Naomi Cahn, Fionnuala Ní Aoláin\*

---

\* The authors are Professors of Law. This Article draws on our book ON THE FRONTLINES: GENDER, WAR AND THE POST-CONFLICT PROCESS (2011). The authors thank Elizabeth Alfred and Adolina Janiak for their invaluable research assistance.

11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

## TABLE OF CONTENTS

<b>Introduction.....</b>	<b>219</b>
<b>I. The Significance of Addressing Gender and Focusing on Women .....</b>	<b>220</b>
<i>A. The Woman Question .....</i>	<i>222</i>
<i>B. Why the Woman Question is Key in the Post-Conflict Context...</i>	<i>223</i>
<b>II. The U.N.'s Gender Resolutions .....</b>	<b>225</b>
<i>A. Relevant U.N. Resolutions.....</i>	<i>225</i>
<i>B. Assessing the Resolutions .....</i>	<i>227</i>
<b>III. Compliance with the U.N. Resolutions .....</b>	<b>231</b>
<i>A. National Action Plans: Do They Effectively Demonstrate Compliance? .....</i>	<i>232</i>
<i>B. Country-Specific Resolutions .....</i>	<i>237</i>
1. International Interactions with Darfuri Refugees .....	239
2. International Interactions with Women in Afghanistan in the Wake of the Security Council Resolutions .....	242
<b>IV. Recommendations and Conclusion .....</b>	<b>246</b>

## Introduction

The data are in: even after more than a decade of experience with United Nations Security Council Resolution (SCR) 1325,<sup>1</sup> women have only made marginal gains of inclusion in, and influence upon, peace processes and the reconstruction efforts that follow. While the U.N. has repeatedly renewed its commitment to “mainstream” gender, most notably with its Millennium Goals,<sup>2</sup> and through Security Council Resolutions acknowledging the importance of integrating women into international peace and security objectives,<sup>3</sup> these exhortations have thus far had little substantive or transformative effect on women’s lives in post-conflict zones.

The post-conflict terrain, at least theoretically, provides multiple opportunities for transformation on many different levels: protecting civilians, providing accountability for human rights violations committed during hostilities, reforming local and national laws, reintegrating soldiers, rehabilitating and providing redress for victims, establishing or re-establishing the rule of law, creating human rights institutions and new governance structures, altering cultural attitudes, improving socioeconomic conditions, and transforming gender roles and women’s status. This Article explores the effort to make gender central in the various legal and political regimes and processes in operation post-conflict, and specifically reviews SCR 1325<sup>4</sup> and its successor resolutions to assess their real contributions towards achieving gender centrality. Section I introduces the significance of gender in the conflict and post-conflict context, while Section II turns to the U.N.’s efforts to address gender in a series of Security Council resolutions, beginning with SCR 1325 in 2000, and evaluates the relationship of these efforts to concepts of gender security applied in the aftermath of conflict. Section III explores how the resolutions have been implemented, reviewing both country specific resolutions developed in an attempt to foster compliance with SCRs, as well as the approach of various nations in preparing their national action plans (NAPs) that establish goals for putting the resolutions into practice. Section III then provides examples of post-conflict, field-

---

1. S.C. Res. 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000).

2. See DEV. INDICATORS UNIT, U .N. STATISTICS DIV., OFFICIAL LIST OF MDG INDICATORS (2008), available at <http://mdgs.un.org/unsd/mdg/Resources/Attach/Indicators/OfficialList2008.pdf>. The Millennium Development Goals come from the Millennium Declaration, G.A. Res. 55/2, U.N. Doc. A/RES/55/2 (Sept. 8, 2000), and from further agreement by member states at the 2005 World Summit, resulting in adoption of General Assembly Resolution 60/1, U.N. Doc. A/RES/60/1 (Sept. 16, 2005).

3. See, e.g., S.C. Res. 1325, *supra* note 1, at 2 (articulating “the urgent need to mainstream a gender perspective into peacekeeping operations”). See also, *infra* discussion at Part II.A, detailing successor Security Council Resolutions 1820, 1888, 1889 and 1960 and their articulations of women’s security.

4. S.C. Res. 1325, *supra* note 1.

11 *SANTA CLARA JOURNAL OF INTERNATIONAL LAW* 217 (2012)

based activities undertaken in the years after passage of SCR 1325 and some of its successors to illustrate the impact (or lack thereof) of the resolutions on peacekeeping, and humanitarian and post-conflict operations in the field. Section IV sets out recommendations for moving forward and concludes that while the resolutions may offer some major momentum in creating a normative framework for building gender concerns into most aspects of peace-making, peacekeeping, and peacebuilding plans and processes, they have done little, as yet, to *centralize* women in these same processes.

Ultimately, this analysis shows that there has, indeed, been some change in rhetoric and practice, such that women are now hailed as more central to conflict and post-conflict processes than they were ten years ago. Moreover, notwithstanding the not inconsequential difficulty of legally enforcing the resolutions, the rhetoric has also affected norms on the ground and is influencing, for example, the desire of international organizations to include women in order to partner with the U.N. The normative shifts have also had a cascade effect, impacting the strategies employed at the national level to include or centralize women.<sup>5</sup> Nevertheless, though the rhetoric has resulted in minimal improvements, most clearly visible in the response to sexual violence, women still remain largely peripheral to the vast majority of post-conflict processes and institutions.

## I. The Significance of Addressing Gender and Focusing on Women

In the past thirty years, the international institutional infrastructure (comprised of the U.N. and other international agencies and donors) has sought to respond to intra-state, and, more frequently, inter-state, conflict through interventions designed to secure peace and advance related goals, including regional security, economic stability and the recognition of human rights for all individuals. The process of “securing” peace has no bright lines or demarcations, and so guaranteeing the immediate peace often leads to a longer-term phase of stabilizing the country through post-conflict reconstruction processes and development. This Article focuses on these post-conflict processes.<sup>6</sup> Decisions about what is included in, or left out of, post-conflict reconstruction processes are often made early during the peace negotiation phases.<sup>7</sup> It is important, therefore, to review the entire continuum—from peacekeeping

---

5. See, e.g., KATHRYN SIKKINK, *THE JUSTICE CASCADE: HOW HUMAN RIGHTS PROSECUTIONS ARE CHANGING WORLD POLITICS* (2011) (discussing the interface between international and national norms).

6. From 1960 to 2008, 112 countries have been primary parties to one or more conflicts. UN WOMEN, *PROGRESS OF THE WORLD'S WOMEN 2011–2012: IN PURSUIT OF JUSTICE* 89 (2011) [hereinafter *UN WOMEN'S 2011–2012 PROGRESS REPORT*], available at <http://progress.unwomen.org/pdfs/EN-Report-Progress.pdf>.

7. FIONNUALA NÍ AOLÁIN, DINA FRANCESCA HAYNES & NAOMI CAHN, *ON THE FRONTLINES: GENDER, WAR, AND THE POST-CONFLICT PROCESS* intro. & chs. 1, 2, 4 (2011) [hereinafter *ON THE*

*Women in the Post-Conflict Process*

and peacemaking through post-conflict peacebuilding—and the resolutions that apply, albeit differently, to each of these various phases of intervention, in order to assess the resolutions' impact.

Societies rarely have the opportunity to revisit and remake their basic social, political, and legal compact. Such potentially transformative moments are so rare that their occurrence helps explain our preoccupation with societies emerging from conflict.<sup>8</sup> It also explains why feminists and other critical thinkers view such opportunities as particularly important to groups that have been marginalized, underrepresented, and discriminated against.

Historically, the actors involved in responding to violent conflict, securing peace, and reconstructing nations torn apart by conflict have failed to take into account at least half of the population of any given country—women. Recent combined legal and political efforts on multiple fronts, including treaty recognition of gender-based violence,<sup>9</sup> robust jurisprudence from regional human rights treaties, and embedded policy initiatives through U.N. agencies (some newly created to address these issues)<sup>10</sup> have given rise to a larger discussion about the impact of conflict on women as a distinct group. Over the past half century, international actors, including and sometimes led by U.N. agencies specifically tasked with assessing the condition and status of women (e.g., UNIFEM)<sup>11</sup> and those most often working with women as the affected population (e.g., UNHCR),<sup>12</sup> began recognizing that women were excluded

---

FRONTLINES].

8. Conflict can provide women with opportunities to break out of stereotypes and stifling societal patterns. . . If women seize these opportunities, transformation is possible. The challenge is to protect the seeds of transformation sown during the upheaval and to use them to grow the transformation in the transitional period of reconstruction.  
UN WOMEN'S 2011–2012 PROGRESS REPORT, *supra* note 6, at 81 (quoting Anu Pillay).
9. Declaration on the Elimination of Violence against Women, G.A. Res. 48/104, U.N. Doc. A/RES/48/104 (Dec. 20, 1993).
10. UN Women was formed in 2010 as a super-agency dedicated to issues impacting women. In its first report, the agency listed as indicators of progress for women suffrage, recognized by only two countries in 1911 and now “virtually universal” (signifying political rights) and the signing of the Convention on the Elimination of All Forms of Discrimination against Women by 186 countries (signifying attention to economic, social, and cultural rights); the report also noted, however, widespread economic and labor insecurity, bias in legal systems, gender-based violence and insufficient health care as ongoing and pervasive gendered concerns. UN WOMEN'S 2011–2012 PROGRESS REPORT, *supra* note 6, at 8–9.
11. United Nations Development Fund for Women [UNIFEM], now part of UN Women, was founded in 1976. *About UNIFEM*, UN WOMEN, <http://www.unifem.org/about/> (last visited Aug. 10, 2012).
12. UNHCR works with refugee populations, and women comprise a majority of most refugee populations. *See, e.g.*, Susan Harris Rimmer, *Reconceiving Refugees and Internally Displaced Persons as Transitional Justice Actors* (UNHCR Policy Dev. & Evaluation Serv. New Issues in Refugee Research Series, Research Paper No. 187, 2010), available at <http://www.unhcr.org/4bbb2a589.pdf>. *See also*, UNHCR: *Majority of Syrian Refugees Are Women, Children*, DAILY STAR LEBANON (June 2, 2012), <http://www.dailystar.com.lb/News/Local-News/2012/Jun-02/175450-unhcr-majority-of>

11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

from many of the processes devised to end conflict and secure peace. From there, it was a short leap to concluding that concrete steps needed to be taken to ensure the inclusion of women.

### A. *The Woman Question*

In commenting on nascent efforts by the international community to engineer post-conflict processes aimed towards improving women's lives, we are mindful of the critiques that focus on westerners inserting themselves into the role of "savior" while viewing locals caught in conflict—particularly women—as "victims," and telling the local population how to move forward.<sup>13</sup> Indeed, those who control and shape these processes, including state and non-state as well as international institutional actors, have often systematically erased women as participants and agents from the post-conflict picture. "Native" women can be marginalized in the post-conflict processes and have, consequently, undertaken sometimes-extraordinary efforts to become visible to the decisionmakers in such contexts.<sup>14</sup> Given the tenuousness of these transitional moments, however, it is critical to take advantage of the potential to create and capture improvements for women that might otherwise never exist.

While heavy-handed interventionist approaches have obvious drawbacks (lacking, for example, legitimacy and longevity unless there is local ownership and "buy in," and sometimes women seem to fare worse after intervention as with Iraqi women post-Saddam),<sup>15</sup> not intervening at all, doing so too softly, or placing "women's issues" too far down on the agenda of intervention and post-conflict priorities also bears significant risk. Inaction could leave women at a loss for substantial rights protection at a time when the rights of individuals in conflict sites are most likely to be considered and formulated or reformulated.<sup>16</sup> Placing women's concerns too far down on the negotiation agenda also risks retrenchment of women's often culturally and socially devalued position as soon as external funding and attention

---

syrian-refugees-are-women-children.ashx#axzz2AzksW72.

13. See Makau Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, 42 HARV. INT'L L.J. 201 (2001), for more on the savages/victims/saviors paradigm. See also Dina Francesca Haynes, *The Deus ex Machina Descends: The Laws, Priorities and Players Central to the International Administration of Post-Conflict Bosnia and Herzegovina*, in DECONSTRUCTING THE RECONSTRUCTION 3 (Dina Francesca Haynes ed., 2008), for more on critiques of heavy handed post-conflict interventions.
14. See Johanna E. Bond, *Gender, Discourse, and Customary Law in Africa*, 83 S. CAL. L. REV. 509 (2010).
15. See also Haynes, *supra* note 13, at 13 (discussing "governance by fiat").
16. See, e.g., Theodora-Ismene Gizelis, *A Country of Their Own: Women and Peacebuilding*, 28 CONFLICT MGMT. & PEACE SCI. 522, 524 (2011) ("UN operations can do better to ensure successful long-term peace than purely domestic alternatives and international involvement without the UN.").

*Women in the Post-Conflict Process*

falls away. Into this balancing act must also go the recognition that local conceptions of gender issues may differ from those articulated by international organizations. Even when they are acknowledged, “women’s issues” can be used as a pretext for achieving an ulterior motive through international intervention.<sup>17</sup> When international actors do notice women’s efforts to be included and acknowledge their obligations to assist with that inclusion, there is a risk of shunting women into soft roles as participants within civil society rather than at the negotiation table itself.<sup>18</sup> In the post-conflict context, there are risks to women from both sides—from acting without ample reflection and awareness, and in failing to act at all. But the possibility that the transitional moment might favorably impact women’s status and opportunity balances in favor of reflective action.

***B. Why the Woman Question is Key in the Post-Conflict Context***

Women’s exclusion from the post-conflict process and the need to focus on centralizing gender emerges from the following data points on women’s status, ranging from women’s economic situations to their roles during and after conflict:

- Women comprise 64% of the population of illiterate adults in the world.<sup>19</sup>
- More than one woman in three lives in a low-income country.<sup>20</sup>
- In low-income countries, maternal and perinatal conditions and diseases account for 38% of women’s deaths.<sup>21</sup>
- Only 19% of national-level parliamentarians and legislators are women,<sup>22</sup> but post-conflict Rwanda has the largest percentage of women in parliament in the world.<sup>23</sup>

17. As women have long noted, it is unjust to ignore women’s oppression for years and then cite it only when preparing to launch an intervention sought for other reasons. *Id.*; Statement by Women Living Under Muslim Laws (WLUML) (on file with author). See also Ava Emaz, *How the West Uses Women’s Rights as an Excuse for Military Intervention*, THIS MAGAZINE (Feb. 17, 2012), <http://this.org/magazine/2012/02/17/how-the-west-uses-women%E2%80%99s-rights-as-an-excuse-for-military-intervention/> (noting that First Lady Laura Bush initiated a campaign in November, 2001, bringing attention to the plight of women in Afghanistan to garner support for the war).

18. ON THE FRONTLINES, *supra* note 7, at ch. 10.

19. DEP’T FOR INT’L DEV., FACTSHEET: GENDER EQUALITY 1 (2008), available at <http://www.dfid.gov.uk/Documents/publications/mdg-factsheets/genderfactsheet.pdf>.

20. WORLD HEALTH ORG., WOMEN AND HEALTH: TODAY’S EVIDENCE, TOMORROW’S AGENDA 4 (2009), [http://whqlibdoc.who.int/publications/2009/9789241563857\\_eng.pdf](http://whqlibdoc.who.int/publications/2009/9789241563857_eng.pdf).

21. *Id.* at 8.

22. *Women in National Parliaments*, INTER-PARLIAMENTARY UNION (June 30, 2010), <http://www.ipu.org/wmn-e/arc/world300610.htm>. In Nordic countries women comprise on average 42% of the parliament, while in Arab states, they average 9%. *Id.*

23. *World Classification*, INTER-PARLIAMENTARY UNION (June 30, 2010), <http://ipu.org/wmn-e/arc/classif300610.htm> (establishing that post-conflict gender attentiveness (such as the institution of quotas and mandatory placement on party lists) works with respect to putting women in of-



## 11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

- In 2009, after years of working on gender parity, women comprised 38.3% of staff in the U.N. Secretariat, but only 27.3% at the D-1 (Senior) level and above.<sup>24</sup>
- Women make up the majority of the world's unemployed, and are laid-off and fired at a much higher rate than men during and after political and economic transitions.<sup>25</sup>
- Only 2.5% of signatories to major peace agreements since 1992 were women.<sup>26</sup>
- 70% of casualties in recent conflicts were civilian non-combatants and the majority of those were women and children.<sup>27</sup>
- There is "a pattern of gender differentiation at all stages of a disaster: exposure to risk, risk perception, preparedness, response, physical impact, psychological impact, recovery and reconstruction."<sup>28</sup>
- Women report conflict-related rape and sexual slavery, forced displacement, and abduction in numbers far exceeding those of men.<sup>29</sup>
- Women make up the majority of refugees and displaced persons.<sup>30</sup>
- Some conflict-related violence is aimed at, or results in, girls not being able to attend school, which perpetuates generations of disempowered women.<sup>31</sup>
- Up to 40% of child soldiers are girls, and women are associated with armed groups in a variety of roles ranging from soldiers to cooks to forced sex partici-

rice). The statistic does not, however, tell us about the actual power of those women to effect change.

24. U.N. OFFICE OF THE FOCAL POINT FOR WOMEN, THE STATUS OF WOMEN IN THE UNITED NATIONS SYSTEM AND IN THE SECRETARIAT 1 (2010), *available at* <http://www.un.org/womenwatch/osagi/ianwge/Factsheet%20as%20of%20FEB%202010.pdf>.
25. GEORGINA WAYLEN, ENGENDERING TRANSITIONS: WOMEN'S MOBILIZATION, INSTITUTIONS AND GENDER OUTCOMES 181–82 (2007).
26. UNIFEM, WOMEN'S PARTICIPATION IN PEACE NEGOTIATIONS: CONNECTIONS BETWEEN PRESENCE AND INFLUENCE 3 (2010), *available at* [http://www.unifem.org/attachments/products/0302\\_WomensParticipationInPeaceNegotiations\\_en.pdf](http://www.unifem.org/attachments/products/0302_WomensParticipationInPeaceNegotiations_en.pdf) (based on a "reasonably representative sample of 24 major peace processes since 1992").
27. UNIFEM, VIOLENCE AGAINST WOMEN—FACTS AND FIGURES 6 (2007), [http://www.unifem.org/attachments/gender\\_issues/violence\\_against\\_women/facts\\_figures\\_violence\\_against\\_women\\_2007.pdf](http://www.unifem.org/attachments/gender_issues/violence_against_women/facts_figures_violence_against_women_2007.pdf).
28. Fionnuala Ní Aoláin, *Women, Vulnerability, and Humanitarian Emergencies*, 18 MICH. J. GENDER & L. 1, 12 (2011) (quoting WORLD HEALTH ORGANIZATION, GENDER AND HEALTH IN DISASTERS 1 (2002)).
29. UN WOMEN'S 2011–2012 PROGRESS REPORT, *supra* note 6, at 83.
30. *Id.* at 84.
31. *See, e.g.*, S.C. Res. 1917, U.N. Doc. S/RES/1917 (Mar. 22, 2010). The resolution condemned, in particular, "forms of discrimination and violence against women and girls . . . aimed at preventing girls from attending schools," under its agenda to focus on the promotion of women's leadership and participation as part of peace-building processes. *Id.* ¶ 35.

*Women in the Post-Conflict Process*

pants and coerced prostitutes.<sup>32</sup>

These statistics show that although women are present during war—as refugees, as workers, as soldiers, as mothers—they are only nominally present in the public arena during processes directed at stabilizing their countries. Because significant empirical and field-sourced evidence suggests that this essential step will promote broader stability, women’s inclusion ought to be a *raison d’être* of international involvement in conflicts and their resolutions. Where women are insecure, children, families, communities, and political structures are also insecure.

## II. The U.N.’s Gender Resolutions

In recognition of the centrality of women to promoting peace, the U.N. Security Council has established a goal to “mainstream” women into post-conflict processes. To further this goal, it passed Security Council Resolution (SCR) 1325 and five subsequent “women related” Security Council Resolutions, with the objective of broadening the scope and encouraging the implementation of SCR 1325. In this Section we first review those SCRs, looking to identify the Security Council’s objectives and then evaluate them, noting that their limited content and enforceability hampers the likelihood of significant progress. Moreover, as our analysis of the resolutions shows, the U.N. continues to heavily emphasize accountability for sexual violence, sometimes to the exclusion of other concerns that are perhaps more intimately related to women’s real conception of “security” priorities.

### A. *Relevant U.N. Resolutions*

In 2000, the U.N.’s Millennium Development Goals included a significant focus on women.<sup>33</sup> During the same year, the Security Council adopted SCR 1325.<sup>34</sup> Various rationales can be offered for the adoption of SCR 1325 at this moment, including: (1) the Security Council feeling that it needed to be seen as “doing something” (albeit via “soft” law) after the peacekeeping debacles in both Rwanda and Bosnia/Herzegovina; (2) the desire to be perceived as “doing something” specifically for women after the same two human rights crises revealed the rape and sexual violence of women being used as tools of war; and (3) a response to the concerted campaign by international women’s NGOs (who essentially embraced governance feminism in a political trade-off to gain U.N. Security Council access), who insisted the Security Council take a normative stand on women. While the contents of

32. *120,000 Girls Believed to Be Child Soldiers*, VOICE OF AMERICA (Oct. 30, 2009), <http://www.voanews.com/english/news/a-13-2005-04-25-voa27.html>.

33. G.A. Res. 55/2, *supra* note 2.

34. S.C. Res. 1325, *supra* note 1.

SCR 1325 reflect the factors on which the permanent five member states of the Security Council could agree, adopting it also deflected attention from the things on which they could not agree. Tackling “women’s issues” by resolution allowed international actors adopting the resolution to maintain a comfortable and familiar role—that of males as protectors of women.<sup>35</sup>

Over a period of ten years, the Security Council adopted five thematic resolutions on women, peace, and security. The stated goal was to “mainstream” women into all aspects of peacemaking, peacebuilding and peacekeeping operations.<sup>36</sup> The adoption of SCRs was notable for several reasons. First, it formally acknowledged and addressed, at least rhetorically, the need to incorporate women into processes intended to secure peace. Second, because the U.N. Security Council is recognized and understood as the key global actor in the security arena, an actor whose resolutions are both determinative and binding as legal, political, and normative pronouncements, it was a powerful signal to the world that this was a message to be taken seriously.

The first of these, SCR 1325, intended to “mainstream” gender by encouraging member states and U.N. bodies to fund gender-sensitive technical development and training, consider the different ways that conflict impacts women and girls, and strive to involve women in peace negotiations, policing, peacekeeping, and humanitarian operations.<sup>37</sup> The resolution emphasized the importance of involving women and girls in post-conflict peace processes and “the urgent need to mainstream a gender perspective into peacekeeping operations.”<sup>38</sup> The implementation of SCR 1325 has also involved U.N. member states (to varying uptake and degree) as they develop National Action Plans and other planning tools as a means to advance implementation of the resolution.<sup>39</sup>

In the years following SCR 1325’s adoption, the Security Council continued its focus on women, attempting to fill gaps, add implementation and enforcement measures and be more specific with regard to what actions member states and international actors should undertake to mainstream women into their peacekeeping and post-conflict reconstruction activities. Under its women, peace and security agenda, the Security Council passed SCR 1820 in

---

35. See also Dianne Otto, *The Exile of Inclusion: Reflections on Gender Issues in International Law over the Last Decade*, 10 MELB. J. INT’L L. 11 (2009) (discussing additional factors for the adoption of SCR 1325 at this particular time).

36. S.C. Res. 1325, *supra* note 1, at 2.

37. S.C. Res. 1325, *supra* note 1. See also *Gender, Peacekeeping & Peacebuilding*, UNITED NATIONS ASS’N IN CANADA, <http://www.unac.org/peacekeeping/en/un-peacekeeping/fact-sheets/gender-peacekeeping-peacebuilding/> (last visited Aug. 10, 2010); *Annan Offers Concrete Proposals to Address Devastation Wrought by Conflict on Women*, UN NEWS CENTRE (Oct. 21, 2002), [www.un.org/apps/news/story.asp?NewsID=5103&Cr=women&Cr1=peace](http://www.un.org/apps/news/story.asp?NewsID=5103&Cr=women&Cr1=peace).

38. S.C. Res. 1325, *supra* note 1, at 2.

39. See *infra* Part III.

*Women in the Post-Conflict Process*

2008, acknowledging and seeking to respond to sexual violence as a weapon of war, and adding to its corpus of activity around gender in conflict and post-conflict settings.<sup>40</sup> Here it affirmed that rape should be treated as a war crime<sup>41</sup> (albeit only after several countries questioned whether rape really was an appropriate topic for Security Council review).<sup>42</sup>

In 2009, the U.N. Security Council passed SCRs 1888 and 1889, each building on SCRs 1325 and 1820. SCR 1888 called for the appointment of a Special Representative on Sexual Violence and gender advisors (referred to as Women Protection Advisors or WPAs, even though “gender” and “women” are not the same) within peacekeeping missions.<sup>43</sup> SCR 1889 focused on the post-conflict terrain more generally, and called for indicators to measure the implementation of SCR 1325.<sup>44</sup> In December of 2010, it adopted SCR 1960, which called for a monitoring and reporting framework to track sexual violence in conflict.<sup>45</sup> The resolutions are binding on member states, and must be implemented by them and by any international actors they supply or support or fund in conflict and post-conflict operations.

***B. Assessing the Resolutions***

The ideal way to assess the impact of the resolutions would be to assess whether they had reached their own, self-imposed benchmarks of success (or failure) during international interventions. Unfortunately, the SCRs do not contain such indicators, and the few external measures that exist are not sufficiently comprehensive or consistent to prove useful for ascertaining real-world impact. Indeed, it is very difficult even to measure things like “end of conflict” and “success” of such interventions, let alone find empirical data benchmarking successes across interventions.<sup>46</sup> Because such indicators are sparse and of little benefit, we

40. S.C. Res. 1820, ¶ 1, U.N. Doc. S/RES/1820 (June 19, 2008).

41. *See id.* ¶ 4.

42. *See UN Classifies Rape a ‘War Tactic,’ BBC NEWS* (June 20, 2008), <http://news.bbc.co.uk/2/hi/americas/7464462.stm>.

43. S.C. Res. 1888, ¶¶ 4, 12, U.N. Doc. S/RES/1888 (Sept. 30, 2009) (reissued for technical reasons on June 22, 2010).

44. S.C. Res. 1889, ¶ 17, U.N. Doc. S/RES/1889 (Oct. 5, 2009).

45. S.C. Res. 1960, ¶ 3, U.N. Doc. S/RES/1960 (Dec. 16, 2010) (mandating, among other things, that the names of those “credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict” in which the U.N. is involved be included in annual reports on the implementation of framework to track sexual violence in conflict).

46. We have argued elsewhere that individual post-conflict efforts should be more effectively and comprehensively benchmarked within each reconstruction programming effort undertaken with international assistance. *See generally* ON THE FRONTLINES, *supra* note 7. Such an undertaking is obviously beyond the scope of our critique with regard to responses to SCR 1325 in this Article. Even the U.N. Women’s Progress Report, while providing some valuable and comprehensive data on the overall status of women, only manages to survey some aspects of women’s status in certain countries in assessing women post-conflict. *See generally* UN WOMEN’S 2011–2012 PROGRESS REPORT, *supra* note 6.

## 11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

first look to and analyze the relevant text of the resolutions themselves. In Section III, we then evaluate the implementation of the SCRs through actions taken by specific countries and U.N. agencies that are mandated to focus on women's interests in conflict ending processes.

First we turn to SCR 1325. While some first hailed it as demonstrating a definitive shift in status for women in the war and peace matrix, this initial assessment has been tempered based on analysis of its content and observation of its implementation.<sup>47</sup> On the positive side, SCR 1325 can be lauded for bringing women into the "peace and security" dimensions of international lawmaking. Security Council resolutions are not to be scoffed at, emerging from the highest pinnacle of the international lawmaking apex, and can communicate an evident normative weight. And some initial skepticism has been replaced by greater feminist confidence that recent resolutions have "managed to build on the footholds created by the earlier resolutions and slowly strengthen the feminist content of this institutional agenda."<sup>48</sup> But, as discussed in this Article, caution is still warranted. There are many holes remaining in the content of the SCRs if the goal is to increase security by incorporating women into conflict and post-conflict processes.

Textually, SCR 1325 makes only oblique reference to what it articulates makes women secure, focusing instead on a somewhat narrow view of security. For example, the Preamble makes reference to certain types of physical security, e.g., ensuring that demining programs consider the "special needs" of women and girls.<sup>49</sup> The document as a whole does little to specifically articulate what must be done during situations of armed conflict to secure women's safety in the short term, let alone more broadly address women's centrality in the longer term, in order to achieve the goal of securing international peace.

A general but primary problem with SCR 1325 and its progeny is that they focus too narrowly (and obliquely) on physical, and specifically sexual, security<sup>50</sup> when, as we articulate further below, other concerns may have higher priority for women and be more tightly

---

47. See generally Dianne Otto, *Power and Danger: Feminist Engagement with International Law through the UN Security Council*, 32 AUSTL. FEMINIST L.J. 97 (2010) (articulating a strong concern about a victim/savior sub-text for the resolution, putting international masculinities in the comfortable role of "protecting" mainly female victims); Fionnuala Ní Aoláin, *International Law, Gender Regime and Fragmentation: 1325 and Beyond*, in WOMEN IN INTERNATIONAL LAW (forthcoming 2012).

48. Otto, *supra* note 47, at 99.

49. S.C. Res. 1325, *supra* note 1, at 2. See also, e.g., *id.* ¶¶ 13–14 (relating to demobilization of soldiers and making reference to the "special needs" of girls and women during humanitarian missions without specifying what they might be).

50. In the post-conflict context, the U.N. has generally prioritized accountability for gender-based violence when turning to "women's needs" in the post-conflict context. See, e.g., UN WOMEN'S 2011–2012 PROGRESS REPORT, *supra* note 6, at 82.

*Women in the Post-Conflict Process*

linked to achieving women's real security across jurisdictions and cultural contexts. Yet, throughout the progression of these resolutions over time, the Security Council has continued with this focus.<sup>51</sup> From the recent passage of another SCR devoted to sexual violence, we can deduce both that the Security Council persists in prioritizing sexual violence during conflict as its main gender goal and that it acknowledges that its goal, to appropriately respond to sexual violence, has not yet been achieved despite passage of the four preceding resolutions over the course of a decade.

Having invested attention, labor, and money in addressing gender-based sexual violence<sup>52</sup>—a considerable amount at least in relation to its other attempts to focus on women—it is natural that the U.N. would wish to see some success achieved from prioritizing those issues over the years. Yet, the too narrow focus misses the mark in several respects. First, it fails to accurately capture or respond to women's articulated security priorities in the post-conflict setting.<sup>53</sup> Second, even in taking aim at the narrow goal of addressing sexual violence, it still fails to effectively achieve accountability for those victims.<sup>54</sup> While taking aim at achieving accountability for sexual violence is a laudable goal, the question is whether, particularly given the unlikelihood of success even within this narrow framework,<sup>55</sup> an expanding international effort to broadly address women's security needs might achieve more.

SCR 1889 is the most unique and perhaps the most promising of the resolutions aimed at women. First, its scope is broader than the predecessor resolutions, which are focused on ensuring physical security and responding to sexual violence; and, second, it extends the emphasis on women to all post-conflict phases and processes. But, most importantly, it emphasizes practical matters—the funding and execution of those programs and policies. Relevant portions of SCR 1889 read as follows:

---

51. S.C. Res. 1960, *supra* note 45.

52. Examples include the establishment of a legal aid network in Sudan, made up of sixty-one Darfuri lawyers, one-third of whose cases were related to gender-based violence and local courts established in the Democratic Republic of Congo (DRC) to address the pervasive rape of women by tackling a small number of rape cases, characterized as “a small but nevertheless significant strike against impunity.” UN WOMEN'S 2011–2012 PROGRESS REPORT, *supra* note 6, at 92–93.

53. These are often context-specific, but as discussed below, in Part III, they often prioritize basic needs first, such as food security, and then issues that impact their families and children, such as employment, education, and so forth.

54. In offering this critique, we are mindful of the fact that the Security Council cannot deliver accountability per se, but is dependent on national and international courts.

55. The number of prosecutions is admittedly low. UN Women characterizes the DRC attempts as “small but nevertheless significant.” UN WOMEN'S 2011–2012 PROGRESS REPORT, *supra* note 6, at 93. Even with a focus on physical security, the U.N.'s conception is too narrow. For example, women will not talk to investigators if it is not safe to do so because even within this narrow conception of “security,” multiple concepts are embedded: safety to meet daily food and water needs, safety to travel, safety to tell without retaliation, safety to rely on the legal institutional structures and law enforcement after testifying, and so forth.

11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

*Noting* that despite progress, obstacles to strengthening women's participation in conflict prevention, conflict resolution and peacebuilding remain, *expressing concern* that women's capacity to engage in public decision making and economic recovery often does not receive adequate recognition or financing in post-conflict situations, and *underlining* that funding for women's early recovery needs is vital to increase women's empowerment, which can contribute to effective post-conflict peacebuilding.<sup>56</sup>

Recognition of the need for funding programs focused on women, even in the early days of peacebuilding, is vital, in that during this "emergency period," women's concerns are often overlooked. The Security Council goes on to state in the first paragraph of 1889 that it

*Urges* Member States, international and regional organizations to take further measures to improve women's participation during all stages of peace processes, particularly in conflict resolution, post-conflict planning and peacebuilding, including by enhancing their engagement in political and economic decision-making at early stages of recovery processes, through inter alia promoting women's leadership and capacity to engage in aid management and planning, supporting women's organizations, and countering negative societal attitudes about women's capacity to participate equally.<sup>57</sup>

Here it specifically broadens the scope of gender mainstreaming to post-conflict reconstruction and also acknowledges the need to extend the concepts of security to include "societal notions" about women's capacity to participate. It sets out specific data, needs assessment and reporting requirements,<sup>58</sup> and again "[u]rges . . . that women's empowerment is taken into account during post-conflict needs assessments and planning, and factored into subsequent funding disbursements and programme activities, including through developing transparent analysis and tracking of funds allocated for addressing women's needs in the post-conflict phase."<sup>59</sup> Finally, it expressly stresses the importance of ensuring to girls and women equal access to education, directly linking women's education to the ability of women to actually be full participants in the post-conflict decision-making process,<sup>60</sup> and requires the Secretary General to submit "a set of indicators for use at the global level to track implementation of its resolution 1325 (2000)," and on progress made in field missions.<sup>61</sup>

SCRs 1888 and 1889 are both too new for a full assessment of their impact. Nonetheless, SCR 1889 explicitly expands the focus on women's place (or lack of place) into the post-conflict context and perhaps most crucially, takes aim at strengthening women's roles in peace negotiations, governance, and the *financing* of post-conflict reconstruction initiatives. This financing component is crucial because it formally extends the Security Council's com-

---

56. S.C. Res. 1889, *supra* note 44, at 2.

57. *Id.* ¶ 1.

58. *Id.* ¶ 6.

59. *Id.* ¶ 9.

60. *Id.* ¶ 11.

61. *Id.* ¶ 17.

*Women in the Post-Conflict Process*

mitment to women, not only to U.N. agencies and the domestic governments that formally receive them, but to all international organizations contributing funds to or receiving funds for post-conflict reconstruction activities. Consequently, international organizations operating in the field view SCR 1889 as a “mandate” to conduct a “thorough analysis of gaps in frontline services [for women] and response capacity [to women’s post-conflict needs]” when creating post-conflict programs.<sup>62</sup>

The Security Council, in U.N.-speak, has determined to “remain actively seized of the matter” of including and considering women’s needs and rights in the context of establishing peace and security.<sup>63</sup> Although the sweep is grand and sometimes oblique, in passing these five resolutions and adopting its broad agenda focused on women, peace, and security, the U.N. Security Council acknowledges that the creation and protection of women’s rights and security is interrelated to the security and protection of all women, men, and children. Now that the U.N. has formally recognized this connection, what remains to be seen is whether the resolutions impact the behavior of international organizations and domestic actors in the field in a way that fundamentally improves women’s place in the conflict to post-conflict continuum.

### III. Compliance with the U.N. Resolutions

Since the Security Council passed SCR 1325, all U.N. agencies and some member states, international organizations and donor organizations operating in concert with international missions have made some efforts to comply. In some countries, as discussed next, this takes form in national action plans which attempt to recalibrate the work of their organizations, militaries, foreign ministries, and development organizations involved in peacebuilding, peacekeeping, and post-conflict processes. Other countries have been the object of country-specific resolutions passed by the U.N. aimed at identifying and resolving issues within those countries’ conflict and post-conflict settings. The following Section evaluates how countries have responded to these particularized resolutions. Notwithstanding all of these efforts, much remains missing in truly effecting change for women, as Sections III and IV demonstrate.

---

62. CARE INT’L, FROM RESOLUTION TO REALITY: LESSONS LEARNED FROM AFGHANISTAN, NEPAL AND UGANDA ON WOMEN’S PARTICIPATION IN PEACEBUILDING AND POST-CONFLICT GOVERNANCE 2 (2011), *available at* <http://www.care.org/newsroom/specialreports/UNSCR-1325/CARE-1325-Report-Women-Peace-Participation.pdf>.

63. S.C. Res. 1889, *supra* note 44, ¶ 20.



11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

### ***A. National Action Plans: Do They Effectively Demonstrate Compliance?***

National Action Plans (NAPs) were created in direct response to Presidential Statements issued by the Security Council which called on member states to identify strategic actions, priorities and resources and determine the division of responsibility and timeframes for the implementation of SCR 1325, and explicitly urged the development of NAPs.<sup>64</sup>

Of the countries that have prepared NAPs, only thirty-seven, as of this writing, have prepared NAPS. All have organized the goals, indicators, impediments, and implementation plans, roughly by the following data points:

- Country
- Primary Focus of Plan
- Measures Proposed to Achieve Goals
- Indicators of Success
- Acknowledgement of Areas of Continued Need
- Specific/Novel/Notable Plans for Implementation<sup>65</sup>

So, for example, Bosnia and Herzegovina identified “increasing participation of women in decision-making position[s] at all levels of government” as a primary focus, and among the measures they have identified to achieve it are implementing gender laws and increasing media spots for women.<sup>66</sup> Impediments to achieving that goal included the need to “sensitize the new private sector heads about gender parity requirements.”<sup>67</sup> Bosnia and Herzegovina’s specific plans included increasing the number of women in the armed forces.

As a means of evaluating the success of SCR 1325, NAPs are quite limited. First, relatively few nations have created NAPs, and those nations have been inconsistent in approach and content. Although they may share some similarities in the structure of their documentation, most paralleling the request as set forth in the Security Council Presidential Statements, the goals, actions, means of implementation, and metrics for measuring success vary significantly from country to country. Second, some states that have drafted NAPs are best considered “donor states” (those sending aid or peacekeepers or contributing civil servants to U.N.

64. See Statement by the President of the Security Council, U.N. Doc. S/PRST/2004/40 (Oct. 28, 2004); Statement by the President of the Security Council, U.N. Doc. S/PRST/2005/52 (Oct. 27, 2005).

65. All National Action Plans can be viewed online. *National Action Plans*, PEACEWOMEN.ORG, <http://peacewomen.org/pages/about-1325/national-action-plans-naps> (last visited Sept. 30, 2012). The U.S. plan was adopted in December, 2011. *Id.*

66. GEND. EQUAL. AGENCY OF BOSNIA AND HERZEGOVINA, MINISTRY OF HUMAN RIGHTS AND REFUGEES OF BiH, ACTION PLAN FOR THE IMPLEMENTATION OF UNSCR 1325 IN BOSNIA AND HERZEGOVINA 2010–2013, 23 (2010), available at [http://www.peacewomen.org/assets/file/bosniaherzegovina\\_nationalactionplan\\_2010.pdf](http://www.peacewomen.org/assets/file/bosniaherzegovina_nationalactionplan_2010.pdf).

67. *Id.* at 6.

*Women in the Post-Conflict Process*

missions), while others are best considered “recipient states” (those receiving such aid or intervention); consequently, the NAPs are drafted for a variety of purposes and reflect different state subjectivities. Nonetheless, they are useful documents in showing the range of possible actions that countries in conflict or those supporting them might take.

The following sampling looks at four substantive categories addressed by six countries that have produced NAPs (the United States, France, Austria, Belgium, Rwanda and Sierra Leone). Not every element can be assessed through such a limited sampling, but it does reveal how different countries interpret what SCR 1325 requires, what they believe it mandates of them, and how they respond to their obligations. The comparative data points in this sampling include: (1) increasing the number of women in the police, military, judiciary and elected offices; (2) educating women and girls; (3) increasing women’s employability and job opportunities; and (4) perfecting laws that disadvantage women or drafting and implementing laws to promote women’s equality. The four categories were selected as relatively common post-conflict initiatives identified to “improve opportunities for women.”<sup>68</sup> Even though these are four relatively well-accepted methods of successfully incorporating women, they are neither universally perceived as necessary, nor universally addressed, as evidenced below. The sampling revealed the following:

1. Increasing the Number of Women Police, Military, Judiciary and Elected Officials:

**Austria:** Increase the representation of Austrian women in foreign peace operations of the police force, Federal Armed Forces, judiciary, administration of justice and among prison officers.<sup>69</sup>

**Belgium:** (1) Advocate for the participation of women’s groups in peace negotiations, (including reserving funds for training women and women’s groups in order to effectively involve them in post-conflict processes such as through determining the order of local zones to be demined); and (2) involve more women in both civil and military peace missions at all levels.<sup>70</sup>

**France:** Support the nomination and appointment by the U.N. Secretary-General of women as representatives and special envoys in charge of missions, and as human

68. Similar entries have been eliminated to avoid duplication.

69. FED. MINISTRY FOR EUROPEAN AND INT’L AFFAIRS, AUSTRIAN ACTION PLAN ON IMPLEMENTING UN SECURITY COUNCIL RESOLUTION 1325 (2000) 4 (2007) [hereinafter AUSTRIAN NAP], available at [http://www.peacewomen.org/assets/file/NationalActionPlans/austria\\_nationalactionplan\\_august2007.pdf](http://www.peacewomen.org/assets/file/NationalActionPlans/austria_nationalactionplan_august2007.pdf).

70. WOMEN, PEACE AND SECURITY: BELGIAN NATIONAL ACTION PLAN ON THE IMPLEMENTATION OF UN SECURITY COUNCIL RESOLUTION 1325, 14, 18 (Dirk Achten ed., 2009) [hereinafter BELGIAN NAP], available at [http://www.peacewomen.org/assets/file/belgium\\_nap\\_2009.pdf](http://www.peacewomen.org/assets/file/belgium_nap_2009.pdf).

11 *SANTA CLARA JOURNAL OF INTERNATIONAL LAW* 217 (2012)

rights specialists employed in the field.<sup>71</sup>

**Rwanda:** Increase women's involvement in the army and police by reviewing and improving recruitment procedures and by providing training for women leaders in conflict management, mediation and peace negotiation techniques. Planned activities include training soldiers and police officers in international humanitarian law.<sup>72</sup>

**Sierra Leone:** (1) Train women at community level to engage their parliamentarians and councillors on the desired minimum thirty percent quota representation for women, in order to increase women's representation and gender parity in decisionmaking at all levels of government; and (2) improve the recruitment and retention of women in law enforcement, justice and security institutions.<sup>73</sup>

2. Educating Women/Girls

**Rwanda:** (1) Address particular needs of women post-conflict, e.g., reintegration of former women combatants, special services for women refugees and displaced women, and establishing an infrastructure for women living with disability; and (2) promote community dialogue aimed at improving community and marital relationships and training and discussion on peaceful cohabitation.<sup>74</sup>

**Sierra Leone:** (1) Train women in peace mediation, negotiation, gender mainstreaming in peace consolidation/recovery, and security; and (2) recommend them to serve at national, regional, and international levels and enhance retention.<sup>75</sup>

3. Job Training/Job Creation for Women

**Austria:** [Identifies specific projects funded and supported by Austria, such as the] Traumatized Children project in Burundi (providing education) and the Women's Em-

- 
71. NATIONAL ACTION PLAN FOR FRANCE: IMPLEMENTATION OF THE "WOMEN, PEACE AND SECURITY" RESOLUTIONS OF THE UNITED NATIONS SECURITY COUNCIL 7 (2010) [hereinafter NAP FOR FRANCE], available at [http://www.peacewomen.org/assets/file/NationalActionPlans/france\\_nationalactionplan\\_2010.pdf](http://www.peacewomen.org/assets/file/NationalActionPlans/france_nationalactionplan_2010.pdf).
72. REPUBLIC OF RWANDA, NATIONAL ACTION PLAN 2009–2012: THE UNITED NATIONS SECURITY COUNCIL RESOLUTION 1325/2000 ON WOMEN, PEACE AND SECURITY 13–15 (2010) [hereinafter RWANDA NAP], available at [http://www.peacewomen.org/assets/file/NationalActionPlans/rwanda\\_national\\_action\\_plan\\_1325.pdf](http://www.peacewomen.org/assets/file/NationalActionPlans/rwanda_national_action_plan_1325.pdf).
73. THE SIERRA LEONE NATIONAL ACTION PLAN FOR THE FULL IMPLEMENTATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS 1325 (2000) & 1820 (2008) 39 (2010) [hereinafter SIERRA LEONE NAP], available at [http://www.peacewomen.org/assets/file/NationalActionPlans/sierra\\_leone\\_nap.pdf](http://www.peacewomen.org/assets/file/NationalActionPlans/sierra_leone_nap.pdf).
74. RWANDA NAP, *supra* note 72, at 16–19.
75. SIERRA LEONE NAP, *supra* note 73, at 22, 39.

*Women in the Post-Conflict Process*

powerment project in Uganda (providing vocational skills training to child soldiers, wives of rebels, and women and children in general).<sup>76</sup>

**Rwanda:** Promote effective collaboration between men and women, organize trainings for women leaders, and conduct grassroots trainings on the existence of financial opportunities for women and in “gender budgeting.”<sup>77</sup>

**United States:** (1) Promote women’s roles in conflict prevention, improve conflict early-warning and response systems through the integration of gender perspectives, and invest in women’s and girls’ health, education, and economic opportunities to create conditions for stable societies and lasting peace; (2) actively engage women in planning and implementing disaster and emergency preparedness and risk reduction activities; and (3) provide diplomatic and developmental support to advance women’s economic development (e.g., cash for work programs and increased access to land and credit).<sup>78</sup>

4. Adapting Laws to Enhance Protections for Women (Sampling Attempts to Identify Plans *Not* Focused on Responding to Sexual Violence, which are more rare):

**Austria:** [Identifies Austrian funded and promoted] Projects in Sri Lanka, Uganda, Burundi, and Nepal encouraging women to “claim their rights,” including budgetary support for justice, law and order sector, with thematic focus on business, commercial, and criminal law, land law, and family law (including security of person and property, promotion of economic development, and improvement of the living conditions of population groups threatened by poverty); Paralegal Training and Advocacy Program in Uganda, to offer legal advisory services, counseling for domestic violence, and respond to human rights crises with sensitivity to local law and culture.<sup>79</sup>

**France:** Include women’s rights and gender equality norms in all bilateral and regional dialogues on security issues, particularly with the African Union and the other regional organizations.<sup>80</sup>

**Rwanda:** (1) Translate and disseminate international and regional conventions and national laws relating to women’s rights and peace building (specific budget included); (2) promote ratification of regional and international laws relating to women’s rights, and gender equity; and (3) sensitize local authorities to women’s rights and issues.<sup>81</sup>

76. AUSTRIAN NAP, *supra* note 69, at 16 (including specific budget estimates).

77. RWANDA NAP, *supra* note 72, at 20–21, 26 (including specific budget and plans for donor conferences).

78. UNITED STATES NATIONAL ACTION PLAN ON WOMEN, PEACE, AND SECURITY 12, 20, 21 (2011) [hereinafter U.S. NAP].

79. AUSTRIAN NAP, *supra* note 69, at 16–24 (including a specific budget).

80. NAP FOR FRANCE, *supra* note 71, at 14 (focusing primarily on sexual violence).

81. RWANDA NAP, *supra* note 72, at 13–14, 23.

11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

**Sierra Leone:** Implement and ratify various instruments (CEDAW, African Union Women's protocol, ECOWAS Conflict Prevention Framework) to ensure that constitutional reforms include gender parity principles and remove all forms of discrimination against women and girls, and translate all relevant instruments into local languages to be disseminated at the local level.<sup>82</sup>

**United States:** Promote rule of law, policies, and practices that strengthen gender equality at national and local levels.<sup>83</sup>

The targets and objectives set forward in the NAPs are sometimes specific in identifying anticipated budgets (e.g., Rwanda) and sources of funds (e.g., Austria and Belgium), while others (e.g., France) are more vague. They are often creative, but sometimes rote. Donor countries most often aim their plans at the countries they assist rather than at themselves, while the recipient countries seem concerned with proving themselves to donors—focusing on listing what they have done and what they plan to do that will bring them into compliance with regional or U.N. requirements, so as not to lose funding and assistance.

On the one hand, the NAPs seem hollow. In addition to being too uneven to serve as assessment tools, they contain no legal enforcement provisions, nor are any required by SCR 1325 or the subsequent Presidential Statements, and only a few countries have been updating their NAPs<sup>84</sup>. On the other hand, the NAPs may serve as norm-setting mechanisms, setting forth the assessments by individual countries as to what changes are necessary to yield more respect for women. They may also serve a sort of “donor clearing house” function, allowing donor countries to direct or recipient countries to solicit funding for projects on the ground. Occasionally, NAPs also make remarkably astute observations about the underlying structural problems experienced by women in specific countries, thereby providing a basis for post-conflict programs which could tackle structural problems while aiding with the post-conflict transitional process.<sup>85</sup> Because of the unevenness and few updates, it is difficult for external observers to assess whether or precisely how NAPs have contributed to specific improvements for women in the field beyond the important factor that within each country someone thought about how to better incorporate women, what would be indicators of success, and whether there were impediments to achieving those goals and how these plans would be implemented.

---

82. SIERRA LEONE NAP, *supra* note 73, at 24, 38.

83. U.S. NAP, *supra* note 78, at 4 (focusing primarily on responding to sexual violence).

84. According to the repository maintained by PeaceWomen, only Denmark, Netherlands, Switzerland and Sweden have updated or revised their plans. See *National Action Plans*, *supra* note 65.

85. See, e.g., RWANDA NAP, *supra* note 72, at 7 (indicating “feminization of poverty” as an impediment to full realization of the goals of SCR 1325).

## B. Country-Specific Resolutions

The U.N. adopts country-specific resolutions designed to set priorities for the “host” governments, U.N. agencies, and international actors partnering with U.N. agencies operating within the conflict or post-conflict environment. Because the Security Council has prioritized women in the context of peace and conflict operations, these country-specific resolutions inevitably make reference to the language and goals contained in SCR 1325 and its progeny when articulating those priorities. In this Section, we look at some of these country-specific resolutions to assess whether the fact that they reference the SCRs effectively alters the conflict or post-conflict terrain favorably for women. At the outset, we must note that here too there is a dearth of comprehensive data, although U.N. PeaceWomen has provided relevant ad hoc information.<sup>86</sup> In reviewing some of the country-specific resolutions, a few key themes emerge.

First, many country-specific resolutions prioritize women’s *political* rights. In so doing, they support the notion that sometimes women’s perspectives are best included and emphasized from the ground up, within civil society groups, for example, rather than from the top down, as members of negotiation teams, electoral processes, and central legal and political institutions. For example, resolutions adopted for peace processes in Cote d’Ivoire<sup>87</sup> and Haiti<sup>88</sup> each identify the importance of including women in the development of the electoral process. Resolutions adopted for Afghanistan<sup>89</sup> and Darfur<sup>90</sup> respectively encourage the participation of women in governance reform at the national and local levels and “underline” the

- 
86. WOMEN’S INT’L LEAGUE FOR PEACE & FREEDOM (WILPF) (A PEACEWOMEN PROJECT), WOMEN, PEACE AND SECURITY HANDBOOK: COMPILATION AND ANALYSIS OF UNITED NATIONS SECURITY COUNCIL RESOLUTION LANGUAGE 2000–2010 (2010), *available at* [http://www.peacewomen.org/assets/file/peacewomen\\_schandbook\\_2010.pdf](http://www.peacewomen.org/assets/file/peacewomen_schandbook_2010.pdf).
87. See S.C. Res. 1933, U.N. Doc. S/RES/1933 (June 30, 2010). The U.N. has been present in Cote d’Ivoire since 2004 with the U.N. Operation in Cote d’Ivoire (UNOCI). This is considered a peacekeeping mission. *UNOCI Background*, UNITED NATIONS, <http://www.un.org/en/peacekeeping/missions/unoci/background.shtml> (last visited Sept. 30, 2012).
88. See S.C. Res. 1927, U.N. Doc. S/RES/1927 (June 4, 2010). The U.N. has been present in Haiti since 2004 with MINUSTAH, the U.N. Stabilization Mission in Haiti, a peacekeeping mission. *MINUSTAH Background*, UNITED NATIONS, <http://www.un.org/en/peacekeeping/missions/minustah/background.shtml> (last visited Sept. 30, 2012).
89. The U.N. has been present in Afghanistan since 2002, in the form of the U.N. Assistance Mission in Afghanistan. The focus of its mission is political. *Mandate*, UNITED NATIONS ASSISTANCE MISSION IN AFGHANISTAN, <http://unama.unmissions.org/Default.aspx?tabid=12255&language=en-US> (last visited Sept. 30, 2012).
90. The U.N. has been present in Darfur and Chad since 2007, with the African Union-United Nations Hybrid operation in Darfur (UNAMID) and the U.N. Mission in the Central African Republic and Chad (MINURCAT). U.N. Doc. S/RES/1881 (July 30, 2009). These are considered peacekeeping missions.

need for the engagement of women in civil society.<sup>91</sup> So one theme evident and emphasized within all four of the country-specific resolutions mentioned here, all passed immediately after and likely responsive to concerns articulated in SCR 1889, is how best to bring women into “governance,” when reconfiguring governance structures and processes after conflicts. While some include women in the development of electoral processes during the early stages of post-conflict reconstruction, these four country-specific resolutions appear only to “bring women in” after the fact by teaching them how to be involved in elections and electoral processes and by encouraging women’s participation in civil society (NGOs), in lieu of directly in central government itself.<sup>92</sup> None of the four country-specific agreements mentioned here requires the participation of women in the formal peace process or during the multiple rounds of developing post-conflict programs. As we have argued elsewhere,<sup>93</sup> creating post-conflict mechanisms and processes for inserting women into *formal* power structures (as well as informal ones) may be important both to women’s security and to overall post-conflict stability within a country.<sup>94</sup> Although we do not endorse the insertion of women into government positions (central, regional or local) in the absence of other measures promoting women’s political, social, and economic capital, we do see the value of promoting women’s presence in governance until it reaches a critical tipping point where input may make its way into policy and law.

Second, by and large, where referring to women, country-specific resolutions passed for ongoing operations in the field still tend to prioritize responding to sexual violence and encouraging actions that place women into political structures and processes (political rights). The emphasis remains on keeping women physically “safe” and on securing their place within the formal (albeit often nascent) political sphere, rather than on making women truly “secure” and centralized in the broader and longer term sense.

The recommendations made “for women” in the country-specific resolutions are neither novel nor proven to actually impact women favorably; indeed, they are actually quite minor and non-controversial. This suggests that the U.N. agencies operating in the field either lack confidence in their ability to articulate what programs and initiatives will actually favorably impact women, or they are “paying lip service” to their obligation to implement the SCRs. It is also possible that a problem we have elsewhere identified is occurring here: when interna-

---

91. See S.C. Res. 1917, U.N. Doc. S/RES/1917 (Mar. 22, 2010) (Afghanistan); S.C. Res. 1881, U.N. Doc. S/RES/1881 (July 30, 2009) (Darfur).

92. For more on whether women gain more through direct involvement in government structures or through civil society, see ON THE FRONTLINES, *supra* note 7, chs. 9, 10.

93. *Id.*

94. See Gizelis, *supra* note 16, at 538 (articulating specific examples in Sierra Leone and Liberia where “international organizations . . . failed to engage women in the post-reconstruction process, undermining well meaning programs and projects”).

*Women in the Post-Conflict Process*

tional actors operate in the “heat” of the post-conflict environment, in what we refer to as “emergency mode,”<sup>95</sup> women’s issues are not sufficiently prioritized and identified.

Following are two country-specific examples. They are limited, aiming neither to cover all of the issues in a particular country, nor all of the issues facing women in conflict-related settings. Their purpose, instead, is to provide examples of problems that continue to plague women in conflict and post-conflict settings, despite passage of the SCRs. As the following examples show, even with the Security Council attempt to direct the focus of actors operating in the field onto securing women’s safety and mainstreaming them into conflict response processes, errors are still being made, women are still going unprotected or unconsidered, and results are still far too uneven.

### 1. International Interactions with Darfuri Refugees<sup>96</sup>

Millions of Darfuri women remained displaced within Darfur and in Chad after their initial flight.<sup>97</sup> In response, the Security Council passed country specific SCR 1881 on Darfur in 2009 which invoked strong language to demand, among other things, that the parties to the conflict “immediately take appropriate measures to protect civilians, including women and children, from all forms of sexual violence, in line with resolution [“women-focused” SCR]1820.”<sup>98</sup>

During their flight and since their displacement, many Darfuri women were subjected to violent rape and sexual assault, not only by their aggressors during the conflict, but also by both Chadians and Sudanese making incursions across the border.<sup>99</sup> Many of these assaults were recorded between 2004–2006, long after passage of SCR 1325, but before passage of SCR 1820, and occurred when women and girls left camp to secure wood and water. As a consequence, by 2007 some international humanitarian aid had begun to focus on providing materials, such as wood and water, so that women would not have to leave camp and become

95. See ON THE FRONTLINES, *supra* note 7, ch. 4.

96. The methodology of the interviews, conducted in Arabic and Maalit, was as follows: “The field investigation consisted of a questionnaire with 42 questions about the respondent’s life in Darfur, the events that caused her to leave Darfur, her life in Chad and her self-reported health status.” PHYSICIANS FOR HUMAN RIGHTS, NOWHERE TO TURN: FAILURE TO PROTECT, SUPPORT AND ASSURE JUSTICE FOR DARFURI WOMEN 2 (2009) [hereinafter NOWHERE TO TURN]. “The average age of interviewees was 35 years with a median age of 30 years and an age range of 18 to 75 years. Almost half (43%) of the interviewees did not have a husband living with them in the camp.” *Id.* at 3.

97. After reaching almost three million in 2009, recent estimates of displaced Darfuris put the number at approximately two million. *Darfur Refugees Still Fear Returning Home*, TURKISH WEEKLY (Mar. 24, 2012), <http://www.turkishweekly.net/news/132908/darfur-refugees-still-fear-returning-home.html>.

98. S.C. Res. 1881, *supra* note 91, ¶ 14.

99. NOWHERE TO TURN, *supra* note 96, at 3.



## 11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

vulnerable to attack.<sup>100</sup> Nonetheless, by 2008 only minimal materials were still supplied and women were again leaving camp to secure wood.<sup>101</sup>

Some of the women, who had reported sexual violence and were again consulted as part of a follow up interview three years later,<sup>102</sup> articulated that although they felt profoundly stigmatized by the sexual violence, many of their current goals and priorities had nothing to do with responding to the sexual violence, the focus of the U.N.'s country-specific resolution. Rather, they prioritized "return to their villages, to regain their livelihoods and the daily routines that gave their lives dignity and purpose."<sup>103</sup> A strong majority of those interviewed, nearly 60%, reported that their immediate concern was insufficient food.<sup>104</sup> "Many said they were always hungry; that the diet and quantities of food were inadequate and that rations were continuing to be cut."<sup>105</sup> In fact, the Physicians for Human Rights Report concluded with the following assessment:

[A]fter five years, the Darfuris living in the camps [in Chad] are reaching a "tipping point" of physical misery, depression, and dissatisfaction in the camps. This is due to a variety of reasons, including the lack of physical security outside the camps, insufficient food rations, a yearning to return home and a lack of opportunities for adults to earn money.<sup>106</sup>

This case study demonstrates many things: that while sexual violence gets the initial attention of the public, we are still unclear about how to respond to it; that donor and public interest drifts away even while problems remain; and that we still do not really know what women want and need, even if we are willing to attempt to supply it. In this study, the women indicated their basic needs—food, the ability to return home, and the means to earn a livelihood.<sup>107</sup> Why then are these articulated needs not made the primary focus of interna-

---

100. *Id.* at 2.

101. *Id.*

102. The previous report was conducted by Physicians for Human Rights. NOWHERE TO TURN, *supra* note 96, at 9 (describing Physicians for Human Rights activities in response to the Darfur crisis leading up to the 2009 report).

103. *Id.* at iii.

104. *Id.* at 5.

105. *Id.* ("Food rations consisted of 2,100 calories in the form of sorghum, oil, salt, sugar and a corn-soy blend. . . . Refugees had to pay or give a portion of their ration to have the sorghum ground, and many sold their sorghum rations for milk or meat, thereby diminishing their total caloric intake.")

106. *Id.* at 6.

107. Darfuri refugees in Chad are not alone in identifying such needs. UN Women reports that:

In Cambodia, for example, 83 percent of women and men prioritized jobs, while 37 percent said that the delivery of services including health care and food was most important. In Timor-Leste, half of the women surveyed identified education for their children as their top priority. In the Central African Republic, women said they needed money, access to services and housing.

UN WOMEN'S 2011–2012 PROGRESS REPORT, *supra* note 6, at 84 (citations omitted).

*Women in the Post-Conflict Process*

tional organizations supplying post-conflict humanitarian services? Is it because these basic needs are not “sexy” enough to secure support from donors who would prefer, for example, to respond to sexual violence, rather than to increase food rations or create micro-enterprise opportunities? Is it more pragmatic—that there is such considerable lag time between the occurrence of a crisis (in this case, rape of refugee women gathering firewood), the identification of the crisis by external organizations, the conveyance of the existence of the crisis to the public and donor groups, the ability of donor organizations to secure funds and send back a response team, for the response team to assess needs, and for donors to then respond to those assessed needs not for a short period of time, but until the problem is resolved? Certainly, donor organizations and member states responding to humanitarian crises are overstretched. The scale of the challenge of responding to such crises is extreme and there is the ever-present reality of financial limitation to acknowledge. Yet, time and again we see what is referred to as “donor fatigue”—assessments and donations focused on problems that, even if still not resolved, have become less of a priority than newer, “sexier,” or more immediate problems. More importantly, it illustrates the way in which the international community perpetually defaults to a masculine way of thinking in which thinking about women (when it happens at all) leads first, and reflexively, to patriarchal protection schemes (such as ending sexual violence), but seems unwilling to address the very masculinities and structures that produce that systematic sexual violence.

The relentless focus on sexual violence raises the following important issue—what questions are women being asked if and when they are consulted about what they need to feel safe? Narrow questions like “which crimes would you like us to focus on when we hold perpetrators accountable?” are not only loaded and leading questions, but likely to yield different responses than would questions like “what will it take for you to feel secure in the post-conflict environment?” Even when women reply, for example, that their immediate priorities are “food insecurity,” or returning home, the responses may fall on deaf ears if donors funding the assessment want to focus on the lingering impacts of sexual violence.<sup>108</sup>

It also demonstrates the fact that while the U.N.’s will to shift attention to women is improving, in many respects the effects have not yet consistently trickled down to the women

---

108. See, e.g., NOWHERE TO TURN, *supra* note 96. The goal of this report was

to conduct a systematic assessment of sexual assault and other human rights violations suffered by Darfuri women who had been subjected to sexual violence in the course of attacks on their villages in Darfur and forced flight to camps on the Chad/Sudan border. The effort was part of a continued commitment to assuring that crimes against humanity, including sexual assault, be documented and exposed, and their mental, physical and social consequences understood so that increased protection, prevention, healing and comprehensive justice can be delivered to the survivors.

*Id.* at 1.

11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

whose lives are at stake.<sup>109</sup> Nine years after SCR 1325, Darfuri women in refugee camps in Chad claimed excessively high rates of depression, sexual violence as a consequence of their refugee status, and food insecurity, just to name a few of the issues most crucial to them. Recalling that SCR 1881 for Darfur *demand*ed that the parties to the conflict “immediately take appropriate measures to protect civilians, including women and children, from all forms of sexual violence, in line with resolution 1820,”<sup>110</sup> revealing how both the gender-based security resolutions and the country-specific resolutions attempting to implement them are failing to achieve even the most basic safety for women. Certainly, the refugee host country of Chad may be differently bound, as a matter of international law, than the parties to the conflict (operating in Sudan and Chad). But the most important potential of the Security Council resolutions is not their legal effect on parties to the conflict, but on the directives they provide to the international and local actors attempting to direct their assistance. Women want sufficient food, the ability to return home, and the means to support themselves financially in the meantime. SCR 1325, with its directive to mainstream women, is too vague to provide concrete direction to international actors. SCR 1820 may have brought attention to the sexual violence these women suffered, but failed to secure even the basic tools and supplies (wood and water) needed to avoid it.

Together, all of the gender-focused SCRs could have an influence on international humanitarian actors and donors, in that they give capacity to these donors to re-prioritize, such that even when resources are few, women’s concerns are at the top of the agenda. The resolutions provided instructions to governments and international institutions to be more thoughtful about how they address gender. Their failure to do so illustrates the point that the gender dimensions of the SCRs may be window dressing.

## 2. International Interactions with Women in Afghanistan in the Wake of the Security Council Resolutions

Afghan women experienced sustained and entrenched exclusion, discrimination and violence when the Taliban gained primary political control over Afghanistan. Over the six years of Taliban rule, the status and harms experienced by Afghani women were largely ignored by the international community and were never viewed as a matter of such import as to jus-

109. It should be noted that the country of Chad has a role to play here. As a refugee-receiving nation, it bears the obligation, under the international *jus cogens* norm of non-refoulement, not to return refugees who would be persecuted. Yet Chad, as one of the world’s poorest countries, is under-resourced and relies, therefore, on U.N. and international agencies to supply the refugees with their basic needs. Practically speaking, it should be acknowledged that this situation is not a loss for Chad, which has seen tremendous economic growth with the presence of international organizations over the past decade.

110. S.C. Res. 1881, *supra* note 91, ¶ 14.

*Women in the Post-Conflict Process*

tify international intervention on the basis of a threat to “international peace and security” under Chapter VII of the U.N. Charter. Only after the catastrophic events of 9/11, when Osama bin Laden was determined to be hiding in Afghanistan, did key political states and international institutions begin discussing “the plight of women” in Afghanistan utilizing such articulation as part of the text of justifying broad military intervention.

In 2011, after almost a decade of international involvement in Afghanistan, a conference was held in Bonn, Germany to assess the progress made in Afghanistan and to plan its future following international withdrawal.<sup>111</sup> Recall that improving women’s status over that which they endured under the Taliban was a vocal part of the public international agenda in Afghanistan. Despite this “central focus” on Afghan women, Afghani women’s NGOs were sidelined from that meeting in Bonn. Only after posting a statement on their website decrying the hypocrisy of the international community for failing to include them in these planning sessions, and with significant behind-the-scenes intervention, support, and lobbying from international women’s groups with access to political elites and media networks, were they ultimately included.<sup>112</sup> The extent to which their inclusion resulted in any substantive structural change to the political and economic structures that produced inequality and violence for Afghani women remains debatable. But this example captures the tenuousness and complexity of the enforcement terrain in which SCR 1325 and the other resolutions function. Simply put, they lack enforcement capacity and will.

This is also an example of how when complex matters such as negotiating the beginning or ending of post-conflict assistance are discussed, women and women’s issues are often ignored as not important enough to consider when “real” or “urgent” issues are on the table.<sup>113</sup> The international actors purporting to care for the advancement of Afghan people utterly failed to consider the inclusion of women in its meeting about withdrawing the international presence from Afghanistan. This type of exclusion may be equally representative of a pre-

111. *Afghanistan: A Decade of Missed Opportunities*, HUMAN RIGHTS WATCH (Dec. 5, 2011), <http://www.hrw.org/news/2011/12/03/afghanistan-decade-missed-opportunities> [hereinafter *HRW Afghanistan*].

112. The initial protest statement made by Women Living Under Muslim Laws (MLUML) was available at <http://www.wluml.org/action/wluml-statement-afghan-womens-exclusion-participation-bonn>, but has since been removed. *See id.* (reflecting on the post by stating “Afghan women leaders and activists had to lobby strenuously simply to obtain representation at the conference and a small slot to speak. Human Rights Watch called on Afghan government officials and other conference participants to work harder to improve women’s participation in decision-making about Afghanistan’s future, including any future peace processes.”).

113. *See, e.g.*, Dina Francesca Haynes, *Lessons from Bosnia’s Arizona Market: Harm to Women in a Neoliberalized Postconflict Reconstruction Process*, 158 U. PA. L. REV. 1779, 1803, 1810, 1816 (2010) (quoting then head of the Office of the High Commissioner for Human Rights in Bosnia with regard to women’s issues failing to be considered at virtually every stage of the peace building process).

## 11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

negotiation compromise with conservative political groups for whom traditional roles for women are an integral part of their state building/consolidation vision. Thus, it is not only an example of ignoring women, but a trade-off made in the name of “security” that prioritizes the values of the intervening actors and *their* security needs over the real and prescient needs of women on the ground.

A significant part of the international intervention in Afghanistan was focused on women, particularly supplying them with political and civil rights such as quotas for women in political institutions and support for the creation of civil society. As a consequence, Afghan women have indeed taken on more leadership roles, “as members of parliament, judges, prosecutors, defense attorneys, police officers, soldiers, civil society officials, and human rights activists.”<sup>114</sup> But whether those roles translate to real rights and power is questionable. For example, despite these gains via electoral quotas, ordinary Afghan women still lack even the most basic protections, rights and security:

The Taliban and other armed groups [still] attack and threaten women, frequently focusing on women in public life, school girls, and the staff of girls’ schools. The government incarcerates women and girls for “moral crimes” such as running away from home—even when doing so is not prohibited by statutory law, with an estimated half of the approximately 700 women and girls in jail and prison facing such charges. Infant mortality and maternal mortality remain among the highest in the world, with 1 in 10 children dying before age 5 and a woman dying of pregnancy-related causes approximately every two hours.<sup>115</sup>

So, while the proliferation of rules and institutions that emanate from post-conflict reconstruction do represent a certain opportunity for concrete structural inclusion, oftentimes, the creation of the institutions alone is incorrectly viewed as sufficient to “meet women’s needs” by “mainstreaming” them into newly created formal structures. One can see that “the more the merrier” approach has driven the extraordinary amount of political and legal energy devoted to placing women into formal institutional settings. In Afghanistan in 2010, for example, 350 women ran for the sixty-eight parliamentary seats that had been set-aside for females.<sup>116</sup> The institution of quotas for women in office can be interpreted in multiple ways. They can be viewed as a promising advance, signaling the increased importance that key international organizations and states have given to realities experienced by women in war.

---

114. *HRW Afghanistan*, *supra* note 111. See also, *ON THE FRONTLINES*, *supra* note 6, ch. 10.

115. *HRW Afghanistan*, *supra* note 111.

116. *Women in Afghanistan Prepare to Take Office*, WOMEN’S DEMOCRACY NETWORK (Dec. 2, 2010), <http://www.wdn.org/news-events-press-center/events/women-afghanistan-prepare-take-office> (“More than 350 women registered as candidates for the 68 seats allocated for women in Afghanistan’s parliamentary elections on September 18, 2010 . . . [resulting in] 16 newly-elected women representing 13 provinces.”).

*Women in the Post-Conflict Process*

Or they can be viewed critically, as representing a part of a broader phenomenon in which the term “woman” can be brought into play (as a legal or political matter) without actually doing any substantive work for the subjects thus conjectured. Violence against women in Afghanistan remains pervasive; this is reflective of women’s real status in the country, despite numerical gains via quota in formal political institutions. Legal reforms, which may look good on paper, have failed to improve the lives of women, as they are not enforced,<sup>117</sup> and cultural norms continue to control women’s status.

The disparity of opinion on the “success” of post-conflict reconstruction in Afghanistan, too, is striking. While *Human Rights Watch* calls this a “[d]ecade of missed opportunities,”<sup>118</sup> *The Economist* claims the decade of international involvement in post-conflict reconstruction has “greatly improved . . . the lot of women and girls.”<sup>119</sup> Certainly women’s existence is improved over that which they experienced under Taliban rule. Yet, with a decade of direct international involvement, and a decade in which to become comfortable responding to SCR 1325, more progress should have been made. It is unclear, therefore, not only whether women do better under the deals “for women” that result from attempts to comply with SCR 1325, but also whether, from the perspective of women, SCR 1325 has indeed improved their lives in the ways in which they themselves would prioritize.<sup>120</sup> When the rhetoric meets the culture, women’s lives may only marginally improve. Furthermore, when future political deals are made with regard to the departure of the international community, there exists the increasing danger of backslide, exemplified by “deals” between Pakistan and the Taliban to cede control of family and religious issues to religious courts.<sup>121</sup>

But the most striking factor here is this: if all of the major donor states and organizations coming together to assess the future of reconstruction and transition efforts in Afghanistan, many of which have adopted NAPs as part of a desire to comply with SCR 1325 and its progeny, still fail to see the value in inviting those Afghani women to a meeting that will determine their future, then we have clearly not yet understood how to “mainstream” women, let alone achieve some of the more ambitious directives set forth in SCRs 1888 and 1889.

In summing up these two country examples, some themes become clear. The SCRs and country resolutions attempting to employ them are only as good as the knowledge and will of

117. *HRW Afghanistan*, *supra* note 111 (discussing the 2009 Law on the Elimination of Violence Against Women).

118. *Id.*

119. *How to End It*, *THE ECONOMIST*, Dec. 3, 2011, at 18–19.

120. Christine Bell & Catherine O’Rourke, *Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Their Agreements*, 59 *INT’L & COMP. L.Q.* 941, 968–69 (2010).

121. *Pakistan’s Swat Gets Sharia Courts*, *AL JAZEERA* (Mar. 17, 2009), <http://www.aljazeera.com/news/asia/2009/03/200931715490896931.html>.

local actors, international actors, donors, and member states to honor, enforce and implement them. When matters are deemed “urgent,” women’s concerns and participation still fall to the bottom of the list of priorities. Women are still not adequately consulted or utilized during needs assessments. Yet, it is not enough that they merely be interviewed or consulted. They must also be asked the right questions in every post-conflict context, at multiple stages, as priorities shift, if even the narrow U.N. goal of “consulting with local and national women’s groups”<sup>122</sup> is to be achieved.

Inclusion in the country-specific resolutions of language contained within the SCRs demonstrates some new and laudable attempts to remind both local and international actors in the field of their obligations to include women in their post-conflict projects. But when lined up next to the range of actual activities in the field, we see the execution of these same objectives falling flat, ignored, or sidelined in favor of more pressing concerns. For SCR 1325 to be effective we should be able to see consistently positive results on the ground. It has, after all, been more than a decade since its passage. And yet, other than the regularization, in some instances, of mechanical processes (e.g., the institution of election education programs for women), and the broader acceptance for the notion of sexual violence as an enforceable war crime (likely attributable to international and regional laws and prosecutions, rather than SCR 1325), it is clear that the goals articulated in SCR 1325 have not consistently translated into practice in the field.

#### IV. Recommendations and Conclusion

Although the *will* to bring women into the dialogue of processes designed around peace-making, peacekeeping and peacebuilding has improved, the *implementation and execution* of that will is still lacking. The fact that the U.N. has turned part of its focus on women is to be welcomed but that focus has remained largely rhetorical, and has not yet yielded concrete actions that fulfill the U.N.’s goals. For example, SCR 1325 has indeed functioned to increase the spotlight on gender security issues in the context of conflict endings. But people working in the field during and after conflict quickly observed that suggesting “the mainstreaming” of women (even while struggling with the fluidity and disagreement in practice over that terminology) into peace processes was entirely different from accomplishing such an outcome. As with many other international instruments, SCR 1325 contains no measures of accountability, nor targets to achieve.<sup>123</sup> Furthermore, as with many U.N. documents hoping to achieve wide consensus, the language was too passive and vague for actors in the field to understand what, exactly, was to be implemented.

---

122. S.C. Res. 1325, *supra* note 1, ¶ 15.

123. See, e.g., Otto, *supra* note 35, at 23.

*Women in the Post-Conflict Process*

Too often, the goals articulated in the Security Council's gender-specific resolutions utterly fail to take hold on the ground. When they do, they are often too short lived to be meaningful (such as firewood in Darfur). The primary problem seems to be a lack of uniformity on goals. One clear theme that emerges is that we have little understanding of what questions to ask in determining how to improve women's lives and security let alone how to answer those questions. *How* are women best mainstreamed? *What* are their goals? *How* do we best achieve their goals? *In what ways* do meeting women's security needs also improve overall security? *How* do we measure whether we have succeeded? These questions are still only infrequently asked and inconsistently answered. It is the answers to these questions that should provide the framework for developing national action plans and for country-specific resolutions.

Adoption of SCR 1325 and its progeny does carry some potential to "change the game" of conflict and post-conflict processes, but that potential does not result from the resolutions' legal enforceability or remedies. Rather, the real game-changing possibilities have so far resulted from pragmatic self-interest in the field. Wherever the U.N. operates, so do multiple other international and regional actors, committed (for varying reasons) to working as part of (or partner to, or in concert with, or as recipients of) U.N. field operations. International humanitarian missions, peacemaking exercises, peacekeeping operations and post-conflict reconstruction operations are executed and carried out not just by the U.N. and its agencies, but by various configurations of U.N. bodies, regional bodies, international organizations and NGOs. Take, for example, the U.N. High Commissioner for Refugees (UNHCR), which often operates in the field, both during and after conflict, and well into post-conflict reconstruction and transitional processes. UNHCR is entirely donor-funded and its donors are governments, international organizations (IOs), corporations and private donors.<sup>124</sup> It rarely carries its field work out independently, but rather relies on and partners with NGOs, the private sector, civil society, departments within local governments, and refugee communities.<sup>125</sup> All of these partner organizations are in turn dependent upon funding to keep their operations ongoing. They secure some of that funding from the UNHCR, as partner/contractors. Other U.N. agencies and field missions similarly partner with and fund the work of other organizations operating in the field. The *raison d'être* of many of these partner

---

124. See *Donors*, UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, <http://www.unhcr.org/pages/49c3646c26c.html> (last visited Oct. 8, 2012) ("UNHCR relies almost entirely on voluntary contributions from governments, inter-governmental institutions, individuals, foundations and corporations.").

125. *Id.* The U.N. refugee agency needs to work with a wide variety of donors and partners to adequately fulfill its role. These range from governments to non-governmental organizations, the private sector, civil society and refugee communities.



## 11 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 217 (2012)

organizations is their ability to operate in the field and assist in humanitarian efforts. They, in turn, receive funding from other donors and governments based on their ability to show that they continue to be invited to operate in the field and effectively partner with U.N. missions and agencies. If they fail to be invited to work in the field, they lose their funding and cease to exist. The U.N. field operations *are* mandated to implement SCRs 1325, 1820, 1888 and 1889, and, as a consequence, other international actors and donors also adopt and attempt to implement the principles articulated within them. Sometimes they appear to do so more effectively, more nimbly, and in a timelier fashion, than can the slower U.N. missions.<sup>126</sup>

As implementation and execution of Security Council objectives continues to be problematic, the Security Council should consider directing U.N. agencies to more specifically make partnering decisions based on a determination as to which NGOs and IOs regularly succeed or fail in properly assessing and responding to women's needs, pursuant to SCRs. If the United Nations resolutions have limited enforcement capacity on their own terms, then IOs and NGOs can be penalized financially for a failure to deliver on gender-based assessment grounds. Increased willingness by the United Nations to undertake gender-sensitive budgeting, namely setting aside defined percentages of field and agency budgets to address gender-based priorities (and specifically the needs of women) is a very practical and highly outcome driven way to proceed, and could be usefully applied to the post-conflict domain. Requiring NGOs to regularly establish their gender-centric bona fides may provide some of the teeth necessary to implement these goals.<sup>127</sup>

Efforts obviously must be multilateral: for governments (receiving and sending), member states, donors, civil society, the passage of binding laws and enforceable treaties are all critical to improving women's status and security. As the SCRs only offer passive influence on these issues, their maximum impact is to focus the attention of donors and programmers on the requirements that they properly assess and attend to women's needs, and that they demonstrate their successes and ameliorate their failures. The Secretary-General and U.N. agencies can then assess the extent to which donors, NGOs, and member states comply and succeed, and limit future participation in field missions to those entities best able to demonstrate compliance and implementation.

---

126. See, e.g., CARE INT'L, *supra* note 62, at 41 (articulating its recalibrated priorities for operating in the field, with considerable specificity, in light of the SCRs, even though, as a non-governmental international actor, it bears no obligation to do so, unless it wants to cooperate with U.N. missions).

127. UN Women has moved towards gender-based budgeting, which may go some way towards creating this link. See, e.g., UN WOMEN, REPARATIONS, DEVELOPMENT AND GENDER: REPORT OF THE KAMPALA WORKSHOP 1–2 DECEMBER 2010 (2010), available at <http://www.unrol.org/files/Kampala%20workshop%202011%20Reparations,%20Development%20and%20Gender.pdf>.

*Women in the Post-Conflict Process*

SCR 1325 has succeeded in one respect. It has become the touchstone for setting the tone that places women's concerns on the agenda, and it is partly responsible for the development of new norms for centralizing women in field missions. Where it has failed to be specific enough with regard to how those concerns should be prioritized and addressed, its successor resolutions have added some specificity. The most promising resolution may be SCR 1889, too new as yet to fully demonstrate its impact, but which broadly articulates many of the concerns addressed in this Article: (1) women's physical safety and inclusion alone is insufficient, but rather women's voice and participation are key; (2) specific factors, such as education must be prioritized in order to allow for longer term security for women and for women's real participation; (3) women's concerns must be properly assessed and that specific funds must be earmarked for all of these activities; and (4) these needs are not only short term, in relation to immediate conflict-related security, but also longer term, and must therefore work their way into all post-conflict activities in the field.

Observing the past decade of slow progress (Liberia), occasional backwards movement (Darfur), and no movement (DRC), it would be Pollyanna-ish to express high hopes for SCR 1889 to succeed where others have not. Yet, the potential exists for SCR 1889 to carry what is currently already a widely known agenda, if not one yet widely understood in terms of practice and implementation. As international actors begin to view conflict-to-post-conflict as a continuum impacting women, the resolutions continue to have a role to play in guiding those actors to set priorities placing women as central actors in all of these conflict-to-post-conflict processes.

11 *SANTA CLARA JOURNAL OF INTERNATIONAL LAW* 217 (2012)

\*\*\*